IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

And
THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 21995 of 2004

Between:

Uppara Venkata Ramudu S/o.U.Venkatesh
R/o.Prasannayapalle, Rapthadu (M) Anantapur District.

..... PETITIONER

AND

1 The Collector and District Magistrate, Anantapur
2 The Government of Andhra Pradesh rep., by its Chief Secretary, Hyderabad.
3 The Superintendent of Central Prison, Cherlapalli.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Habeas Corpus Under Art 226 of the Constitution of India directing the Respondents to produce the detenu Sri Velpula Sreenivasulu @ Chinnakotla Seena @ Auto Seena, S/o.Laxmanna, now detained in Central Prison, Cherlapalli, before this Hon'ble Court and he may be ordered to be released forth with after declaring his detention as illegal and void.

Counsel for the Petitioner: MR.C.PRAVEEN KUMAR

Counsel for the Respondents No1 to 3.: THE ADVOCATE GENERAL

The Court, at the stage of admission, made the following:

Oral order: (Per: The Hon'ble Mr. Justice Bilal Nazki)

This Habeas Corpus petition has been filed by the uncle of the detenue viz., Velpula Sreenivasulu @ Chinnakotla Seena @ Auto Seena challenging the order of detention of the detenue passed by the Collector and District Magistrate, Anantapur district by her order dated 17-09-2004 in terms of the Andhra Pradesh Prevention of Dangerous Activities of Boot Leggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (for short 'the Act').

Counter has been filed. Record has been produced. We have heard the learned counsel for the parties and also gone through the record.

Eight grounds have been mentioned in the grounds of detention. The 7th ground pertains to the crime No. 72 of 2004 under Section 25 (1B) of Arms Act of Rapthadu Police Station.

Learned counsel for the petitioner submits that in order to brand a person as 'Goonda', he must be a habitual offender and should have committed offences in terms of Chapter-XVI, XVII and XXII of the Indian Penal Code. Crime No. 72 of 2004 pertains to an offence under the Arms Act. The detenue could not be termed as 'Goonda' within the meaning of Section 2 (g) of the Act. Since this court has held that unless the person is habitually involved in offences under Chapters XVI, XVII and XXII of the Indian Penal Code, the detenue cannot be termed as 'Goonda' in terms of Section 2 (g) of the Act. If the detenue cannot be termed as 'Goonda', then the order of detention cannot be passed against him.

For these reasons, we allow the writ petition. The order of detention is quashed. The respondents are directed to release the detenue from custody forthwith, if not required in any other case. The writ petition is, accordingly allowed. No costs.

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BILAL NAZKI, J

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Dr. G. YETHIRAJULU, J

Dt. 13-12-2004

Pvks/*

To

1 The Collector and District Magistrate, Anantapur
2 The Chief Secretary, the Government of Andhra Pradesh, Hyderabad.
3 The Superintendent of Central Prison, Cherlapalli.

4.2CCs to the Advocate General, A.P. High Court Buildings, Hyderabad (OUT)

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